

REMARKS/ARGUMENTS

This Amendment and Response is responsive to the non-final Office action dated March 17, 2008, setting forth a shortened three-month statutory period for reply expiring on June 17, 2008. This response is submitted on June 17, 2008.

The Assignee thanks the Examiner for reviewing this application and issuing an Office action.

Prior to entry of this Amendment and Response, claims 6-12 and 73 are pending in the application, with claims 6, 7, 9 and 73 being independent. By this Amendment and Response, claims 6-10, 12 and 73 are amended, and claims 77-99 are added. Accordingly, after entry of this Amendment and Response, claims 6-12, 73 and 77-99 will remain pending, with claims 6, 7, 9 and 73 being independent.

I. **Rejection under 35 U.S.C. § 102**

The Office action rejects claims 9-12 under 35 U.S.C. § 102(b) over U.S. Patent Nos. 5,039,092 and 5,074,551 to Olschansky et al. ("the Olschansky references"). The Assignee respectfully traverses this rejection.

As amended, independent claim 9 recites, *inter alia*, an exercise unit comprising means for providing a constant load, an actuator attached to the means for providing a constant load, and means for adjusting the load provided by the means for providing a constant load, the means for adjusting being continually engaged with the means for providing a constant load.

The Assignee respectfully submits that the Olschansky references fail to teach or suggest all of these claimed features.

In rejecting claims 9-12, the Office action refers to the resistive force mechanism 40 as "means for providing a constant load utilizing resilient bands." The Office action further refers to the handle mechanism 11 of the Olschansky references as an actuator. Assuming *arguendo* that these elements of the Olschansky references correspond to these features recited in claim 9, the Assignee respectfully submits that the Olschansky references fail to teach or suggest a means for adjusting the load provided by the resistive force mechanism 40 that is continually engaged with the resistive force mechanism 40, as required by claim 9.

The Olschansky references teach a releasable coupling arrangement for the elastic cord members 72 of the resistive force mechanism 40. See Figs. 3, 7 and 8, and column 8, lines 11-53 of Olschansky '092. Specifically, removable pin members 78 are employed to releasably

engage an elastic cord connector block 76 when resistive force from the corresponding elastic cord is desired. Thus, to adjust the load provided by the resistive force mechanism 40 of the Olschansky references, one or more pin members 78 is/are withdrawn and disengaged. This is completely contrary to the means for adjusting the load provided by the means for providing a constant load recited in claim 9, which is continually engaged with the means for providing a constant load.

Therefore, the Assignee respectfully submits that independent claim 9 is patentable over each of the Olschansky references. The Assignee also respectfully submits that claims 10-12 are patentable over each of the Olschansky references at least in view of the patentability of claim 9 from which they depend, as well as for the additional features they recite.

In particular, dependent claim 12, as amended, recites that the means for adjusting comprises a rotary crank. The Assignee respectfully submits that the Olschansky references also fail to teach or suggest this claimed feature as the releasable coupling arrangement taught by the Olschansky references does not involve any rotary structure.

II. Rejection under 35 U.S.C. § 103(a)

The Office action rejects claims 6-8 and 73 under 35 U.S.C. § 103(a) over both of the Olschansky references. The Assignee respectfully traverses this rejection.

As amended, independent claim 6 recites, *inter alia*, an exercise unit comprising a resistance engine, an actuator attached to the resistance engine, and a load adjustment mechanism continually engaged with the resistance engine and configured to adjust the load provided by the resistance engine.

Similarly, as amended, independent claim 7 recites, *inter alia*, an exercise unit comprising a resistance engine, an actuator attached to the resistance engine, and means for adjusting the load provided by the resistance engine, the means for adjusting being continually engaged with the resistance engine.

Similarly, as amended, independent claim 73 recites, *inter alia*, an exercise unit comprising a resistance engine, an actuator attached to the resistance engine, and a load adjustment mechanism continually engaged with the resistance engine and configured to adjust the load provided by the resistance engine.

The Assignee respectfully submits that the Olschansky references fail to teach or suggest all of these claimed features. In particular, the Assignee respectfully submits that the Olschansky references fail to teach or suggest at least the load adjustment mechanism recited

in claims 6 and 73 and the means for adjusting recited in claim 7, at least for the reasons set forth above with respect to claim 9.

Therefore, the Assignee respectfully submits that independent claims 6, 7 and 73 are patentable over each of the Olschansky references. The Assignee also respectfully submits that claim 8 is patentable over each of the Olschansky references at least in view of the patentability of claim 7 from which it depends, as well as for the additional features it recites.

In particular, dependent claim 8, as amended, is also patentable at least for the reasons set forth above with respect to claim 12.

III. Conclusion

The Assignee respectfully notes that deficiencies with respect to the rejections, such as the failure to provide any reasoning or factual basis for the conclusion of obviousness, are not addressed in detail as they are rendered moot in view of the amendments to the independent claims, particularly the deletion of "a spiral pulley" from claim 6 and "means for modifying" from claim 7. Thus, the Assignee does not acquiesce to the positions taken by the rejections not specifically addresses by this response.

The Assignee believes no fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 as necessary.

Should any issues remain that the Examiner believes may be dealt with in a telephone conference, she is invited to contact the undersigned at the number below.

Respectfully submitted,

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By 
Klifton L. Kime, Attorney Reg. No. 42,733
DORSEY & WHITNEY LLP
370 Seventeenth Street, Suite 4700
Denver, Colorado 80202-5647
Tel.: (303) 629-3400
Fax: (303) 629-3450

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